

To the Members of the California State Assembly:

I am returning Assembly Bill 2170 without my signature because it does not acknowledge the impact of federal pre-emption in the regulation of benefits and other aspects of Medicare drug plans and would erroneously create the impression that California oversees benefits and can assess the relative value of the products offered. The federal government is the regulator of Medicare Part D plans, and maintains all the data regarding these plans. The state has jurisdiction only over aspects of the financial solvency for these federal plans.

California has taken numerous steps to mitigate implementation challenges of the federal Medicare Prescription Drug program and maintain access to lifesaving medications for seniors and persons with disabilities, in a manner that is consistent with the state's role, responsibilities and legal authority. With my partners in the Legislature, I took immediate action to provide emergency drug coverage to Californians dually eligible for Medi-Cal and Medicare who could not access vital medications through the federal Medicare Prescription Drug Program. Building on the state's role and legal authority, I have signed AB 2667 (Baca) to ensure state departments and the CalPERS Board consider a plan's performance under the Medicare Part D program and in other states when conducting state licensing or contracting for state funded services.

For these reasons I am returning AB 2170 without my signature.

Sincerely,

Arnold Schwarzenegger